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VIA ELECTRONIC FILING

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Jocelyn Boyd, Chief Clerk/Administrator
Public Service Commission of South Carolina
101 Executive Center Drive
Columbia, South Carolina 29211

**Re: Peerless Network of South Carolina, LLC.
Docket No. 2012-435-C
Our File No. 31026-0001**

Dear Jocelyn:

Enclosed for filing please find the Testimony of John Barnicle on behalf of Peerless Network of South Carolina, LLC in the above referenced docket. A copy of the testimony is being provided to the S.C. Office of Regulatory Staff by copy of this letter. If you have any questions, please have someone on your staff contact me.

Very truly yours,

ROBINSON, MCFADDEN & MOORE, P.C.

Bonnie D. Shealy

/tch
Enclosures

cc/enc: Hearing Examiner Josh Minges (via email)
C. Lessie Hammonds, ORS Staff Attorney (via email and & U.S. Mail)
Patrick D. Crocker, Esquire (via email)

**BEFORE THE PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA**

DOCKET NO. 2012-435-C

Application of:)
)
Peerless Network of South Carolina, LLC)
For a Certificate of Public Convenience and Necessity To)
Provide Facilities-based Local Exchange and Resold)
Long Distance Telecommunications Services and For)
Flexible Regulation of its Local Exchange Services and)
Alternative Regulation of its Long Distance Service)
Offerings Within the State of South Carolina)

TESTIMONY OF JOHN BARNICLE

1 I. Introduction

2 **Q. Please state your name and business address.**

3 A. My name is JOHN BARNICLE. My business address is PEERLESS NETWORK OF
4 SOUTH CAROLINA, LLC (“PEERLESS”), 222 Riverside Plaza, Suite 2730, Chicago,
5 IL 60606.

6 **Q. By whom are you employed and in what capacity?**

7 A. I am the President of PEERLESS.

8 **Q. Please give a brief description of your background and experience in business and**
9 **telecommunications.**

10 A. I have over 20 years of experience in the telecommunications industry. My current role
11 is President and I am responsible for operating and managing Peerless, its parent
12 corporation Peerless Network, Inc. and its affiliates.

13 I was President and Chief Executive Officer for Lynch Interactive Corp., which
14 under my leadership, the firm: a) grew non-regulated revenue streams on a 20% per year
15 pace to reduce the company’s reliance on USF (Universal Service Fund) financial

1 support; b) completed the “going dark” process necessary to take the company private,
2 thereby minimizing the financially-onerous aspects of the Sarbanes-Oxley requirements;
3 and c) led the refinancing of all, or portions of, six different operating company loan
4 agreements.

5 I served as Co-founder, President and Chief Operating Officer of Neutral Tandem
6 Inc., which I grew from inception to annualized revenue run rate of over \$40 million in
7 just twenty months. Under my control, Neutral Tandem became EBITDA positive within
8 twelve months of providing service and currently has virtually every major competitive
9 wireless and wireline carrier in the country as a customer. Neutral Tandem filed an S-1
10 with the SEC in January 2007 for an Initial Public Offering (IPO). My responsibilities at
11 Neutral Tandem included overseeing the sales, marketing, engineering, operations and IT
12 departments, as well as full P&L responsibility for the business. I also was instrumental
13 in raising over \$35 million in private equity and debt capital necessary to establish and
14 grow the company.

15 I was the Co-founder, President, and Chief Operating Officer for Focal
16 Communications Corporation. Under my direction, the company grew to an annualized
17 revenue run rate of approximately \$350 million per year, with nearly 1 million DS-0
18 equivalents of voice and data services in service across twenty-three markets. As part of
19 its business plan Focal offered local phone service (POTS, T-1s, Primary Rate ISDN),
20 long distance, private lines, internet access, managed modem, co-location, and DSL. Its
21 customers included half of the Fortune 100, Wireless and VoIP providers, and ISPs. My
22 responsibility included overseeing marketing, engineering, operations and IT
23 departments, as well as sales and business development. Under my direction, service-

1 related customer churn was reduced to an average of approximately 1% per year on my
2 watch, leading to Focal's recognition as an industry-leader among its peers, as well
3 winning various awards from customer groups, Innovation Week, and CIO Magazine.
4 During this time, I also had full P/L responsibility, including responsibility for the capital
5 budget, which peaked at nearly \$300 million per year. I also led a private equity fund
6 raising round, and then later an Initial Public Offering (IPO), two high yield bond
7 offerings, a bank credit facility, and a private recapitalization, totaling over \$800 million.
8 Subsequent to my departure from Focal, Focal filed for protection and reorganization in
9 federal bankruptcy court and was later acquired by Broadwing Corporation which was
10 later acquired by Level 3 Communications, Inc.

11 I earned my M.B.A. in Finance (with Distinction), from DePaul University, 1995
12 and my B.S. Electrical Engineering with an emphasis on RF communications systems,
13 University of Illinois at Champaign, 1987.

14 **Q. What is the purpose of your testimony?**

15 A. The purpose of my testimony is to describe the nature of PEERLESS' proposed service
16 offerings within the State of South Carolina, and to demonstrate its financial, managerial,
17 and technical ability to provide the telecommunications services for which authority is
18 sought herein.

19 **Q. Do you intend to incorporate by reference any documents into your testimony?**

20 A. Yes. I wish to incorporate by reference the underlying Application filed in this
21 proceeding and its associated exhibits.

22 **A. Are all of the statements in Peerless' Application correct and true to the best of your**
23 **knowledge, information and belief?**

1 Q. Yes.

2 **Q. Has anything occurred since your Application was filed that materially changes the**
3 **representations?**

4 A. No.

5 II. The Business of PEERLESS

6 **Q. Has PEERLESS registered to do business in South Carolina?**

7 A. Yes. PEERLESS is organized in the State of South Carolina. A copy of the Articles of
8 Organization is attached to the Application as Exhibit A.

9 **Q. Please describe the services PEERLESS intends to provide within the State of South**
10 **Carolina.**

11 A. PEERLESS seeks authority to operate as a provider of facilities based and resold local
12 exchange and resold long distance services. Specifically, PEERLESS seeks authority to
13 provide primarily competitive access services, high-capacity telecommunications
14 services, including private line, transport, and long-distance services for enterprise
15 customers, carriers and other network providers throughout the State of South Carolina.

16 **Q. Please tell us more about your proposed service offering.**

17 A. Peerless Network Inc., PEERLESS' parent company, was founded in 2008 by industry
18 veterans to focus on simplifying the interconnection process for other
19 telecommunications service providers. PEERLESS and its affiliates provide a wide
20 variety of services designed specifically for competitive local exchange carriers, cable
21 telephony companies, wireless carriers, interexchange carriers, enhanced service
22 providers and enterprises. PEERLESS is a leading provider of interconnection and data
23 center services. We are focused on simplifying how networks, devices and people

1 connect to one another. PEERLESS offers a fully diverse all Internet Protocol (“IP”)
2 switching platform and transport network that operates without the encumbrances of
3 legacy IP networks that mix commodity Internet traffic and voice calls.

4 **Q. What carrier will PEERLESS utilize as its underlying carrier for services in South**
5 **Carolina?**

6 **A.** PEERLESS is requesting state-wide authority to provide both local exchange and
7 interexchange services within South Carolina. PEERLESS will provision
8 telecommunications services through a combination of its own facilities, facilities leased
9 from other carriers, and the resale of facilities and equipment of Incumbent Local
10 Exchange Carriers (“ILEC’s”) operating in South Carolina. PEERLESS intends to use a
11 certificated underlying carrier in South Carolina and intends to begin negotiations upon
12 receipt of its authority.

13 **Q. Is PEERLESS currently authorized to provide intrastate telecommunications**
14 **services in any other states?**

15 **A.** No, PEERLESS is not authorized to operate as a service provider in any jurisdiction.
16 There is, however, generally a separate limited liability company set up for each of
17 PEERLESS’ affiliates by state. Peerless Network Inc. is the parent of each such affiliate.
18 Following is a list of affiliates with authority to provide telecommunication services
19 within the following jurisdictions: Arizona, California, Colorado, Connecticut, Delaware,
20 District of Columbia, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky,
21 Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nevada, New Jersey, New
22 York, North Carolina, Ohio, Oregon, Pennsylvania, Rhode Island, Tennessee, Texas,
23 Utah (IXC), Virginia, Washington and Wisconsin. Furthermore, PEERLESS has

1 applications pending or in process within the following jurisdictions: Arkansas,
2 Louisiana, Maine, Oklahoma and Utah (CLEC). New Hampshire, Vermont, and Maine.

3 **Q. Does PEERLESS intend to file a tariff with the Commission?**

4 A. Yes, PEERLESS will file a tariff similar to the proposed tariff filed along with
5 PEERLESS' application as Exhibit E in this docket. The S.C. Office of Regulatory Staff
6 ("ORS") requested that we make certain revisions to the proposed tariff submitted with
7 the Application. If our authority is granted, the initial tariff filed after the order is issued
8 will include the changes requested by ORS. We believe that PEERLESS' tariff will
9 comport with all orders, rules, and regulations of the Commission.

10 **Q. Will PEERLESS comply with the Commission's orders regarding the resale of**
11 **interexchange carrier services?**

12 A. Yes. PEERLESS will at all times provide and market interexchange carrier services in
13 accordance with current Commission policies. In addition, PEERLESS at all times
14 provides interstate services in compliance with all FCC rules and regulations.

15 **Q. Has PEERLESS provided any intrastate telecommunications services within the**
16 **State of South Carolina?**

17 A. No it has not.

18 **Q. What rates will PEERLESS charge end users upon receipt of certification?**

19 A. PEERLESS will charge end users the tariffed rates approved by the Commission.

20 **Q. How will PEERLESS market services in South Carolina?**

21 A. PEERLESS will market services in South Carolina to carriers directly through its sales
22 force.

23 **Q. What Regulatory Treatment is PEERLESS seeking in this Application?**

1 **A.** Peerless requests flexible regulation for its telecommunications services such as the
2 Commission granted in Order No. 98-165 in Docket No. 97-467-C. Peerless specifically
3 requests that the Commission: (a) adopt for local exchange services a competitive rate
4 structure incorporating maximum rate levels with the flexibility for rate adjustment below
5 the maximum rate levels; and (b) presume that its tariff filings for local exchange services
6 be valid upon filing, subject to the Commission's authority, within thirty (30) days, to
7 institute an investigation of such filings. At the discretion of the Commission such filings
8 may be suspended pending further order of the Commission and any such filings may be
9 subject to the same monitoring process as the Commission applies to other, similarly
10 situated carriers.

11 PEERLESS further requests that the private line service offerings it plans to offer
12 and all of its interexchange business service offerings be regulated pursuant to the
13 procedures described and set out in Docket No. 95-661-C and as modified by Order No.
14 2001-997-C in docket No. 2000-407-C. It is PEERLESS' intent by this request to have its
15 business services regulated in the same manner as this Commission has permitted for by
16 AT&T Communications of the Southern States. Specifically, PEERLESS requests:

- 17 (a) removal of maximum rate tariff requirements for its business services, consumer
18 card, operator service, and future private line, and customer network-type offerings;
19 (b) that tariff filings for these uncapped offerings are presumed valid upon filing. If the
20 Commission institutes an investigation of a particular filing within seven days, the
21 tariff filing will be suspended until further order of the Commission; and
22 (c) any relaxation in the reporting requirements that may be adopted for AT&T shall
23 apply to PEERLESS also.

1 We understand that the alternative regulation orders were modified by Order No. 2001-
2 997 so that rate caps for operator-assisted calls where a consumer uses a local exchange
3 carrier's calling card to complete calls from locations which have not selected that local
4 exchange carrier as their toll provider. The order imposed a maximum cap of \$1.75 for
5 operator surcharges for such calls, and a maximum cap of \$0.35 related to the flat per-
6 minute rate associated with these calls.

7 III. Managerial, Technical, and Financial Qualifications

8 **Q. Does PEERLESS have sufficient managerial, technical, and financial resources and**
9 **ability to provide the telecommunications services proposed in its Application?**

10 A. Yes. PEERLESS has sufficient technical, financial, and managerial resources and the
11 ability to provide the telecommunications services for which authority has been sought
12 herein. PEERLESS' personnel represent a broad spectrum of business and technical
13 disciplines, possessing many years of individual and aggregate telecommunications
14 experience. My qualifications and experience were previously discussed in this
15 testimony.

16 **Q. Please tell us about Peerless' technical and management capability.**

17 A. Peerless Network was founded in 2008. The Company's management team has strong
18 managerial ability and experience in the telecommunications industry that will allow it to
19 be a successful telecommunications carrier within the State of South Carolina. In addition
20 to my experience, Douglass B. Lee, Chief Financial Officer has over 15 years of
21 telecommunications experience. Prior to joining Peerless, he was Co-Founder and
22 Executive Vice President/Chief Financial Officer of TeleGuan Holdings, LLC. Scott
23 Kell, Executive Vice President of Operations has nearly 16 years of experience in the

telecommunications industry. A list of Directors and Officers and the biographies of the senior management of Peerless Network were attached as Exhibit D of the Application. Peerless Network has achieved a number of significant operational milestones that demonstrate its technical and management's capability including the following:

- Peerless built an all IP network with points of presence in Chicago, New York City, Philadelphia, St. Louis, Los Angeles, Atlanta, Miami, San Francisco, Camden, Jersey City, Atlantic City, Cleveland, Columbus, Connecticut, Indianapolis, Milwaukee, Orlando, San Diego, Tampa, Boston, Phoenix, Dallas, Denver and Seattle.
- Peerless announced additional expansion to Las Vegas, Charlotte, Portland and Nashville in 2011; and
- established a diverse and redundant nationwide 10Gbps transport network supporting sub second failover at all layers

As a result, Peerless Network is now connected to nearly every major domestic carrier offering call origination and termination services in over 100 LATA's and 30 Major Trading Areas.

Q. How does PEERLESS handle customer service requests?

A. PEERLESS operates a customer service department that can be reached conveniently by a toll free number, 1-888-380-2721, 8:00 a.m. – 6:00 p.m. Monday through Friday. PEERLESS' network operations center is available 24 hours per day, 365 days a year and can be reached at 1-888-380-2721 or 312-506-0940.

Q. Please describe the financial condition of PEERLESS?

A. In support of PEERLESS' financial ability to provide the services sought herein, PEERLESS filed the Confidential Financial Statements of Peerless Network, Inc. with the Commission as Exhibit C to the Application in this proceeding. PEERLESS has

1 requested, and the Commission has ordered, that this information be considered
2 Confidential because it contains private financial and business information.

3 In early January, Peerless Network secured \$15M in debt financing to fund
4 network growth, provide additional data center capacity and enter new markets. Attached
5 as **Exhibit 1** is a press release which provides additional information on the financing
6 arrangement and the Company's profitable growth.

7 **Q. How will residents of South Carolina benefit from PEERLESS's services and**
8 **presence in South Carolina?**

9 A. Approval of PEERLESS' Application will promote the public interest by creating greater
10 competition in the provision of telecommunications services in South Carolina.
11 PEERLESS will provide the highest quality service at competitive prices. PEERLESS'
12 entry into South Carolina will make its customers' interconnection process simpler, less
13 expensive and more efficient. PEERLESS does not restrict interconnections based on
14 carrier type, call jurisdiction or network architecture. Since PEERLESS is dedicated to
15 open and full competition it can maximize customer savings, lower unit costs and
16 improve customer service. Peerless Network has built one of the largest interconnection
17 networks in the country enabling wireless carriers, competitive and incumbent local
18 exchange carriers, cable companies and others to connect with each other regardless of
19 how, where or who they need to interconnect. PEERLESS helps its customers scale their
20 network more efficiently by aggregating traffic types, routing advancing calls, and
21 increasing capacity using a wide variety of routing options and protocols. PEERLESS'
22 participation in South Carolina's intrastate telecommunications market will also expand
23 the tax base and revenue sources for the State. In summary, granting this Application is in

1 the public interest because it will enhance competition, generating the benefits that result
2 from competition, such as customer choice, a more efficient, innovative, technologically
3 advanced and diverse telecommunications infrastructure, higher service quality and
4 competitive prices in the State of South Carolina.

5 **Q. Does Peerless seek waivers of any of the Commission's regulations?**

6 A. Yes, PEERLESS has requested the following waivers:

- 7 • PEERLESS requested an exemption from any policies that might require a carrier
8 to maintain its financial records in conformance with the Uniform System of
9 Accounts. As a competitive carrier, PEERLESS maintains its books in accordance
10 with Generally Accepted Accounting Principles; and therefore, does not possess
11 the detailed cost data required by USOA.
- 12 • PEERLESS requested a waiver of the requirements of 26 S.C. Reg. 103-610 that a
13 carrier keep all records required by the Commission's rules and regulations within
14 the State of South Carolina. Since the company's corporate offices are in Illinois
15 maintaining its books and records in South Carolina would be unduly
16 burdensome. PEERLESS will have a registered agent in South Carolina and will
17 make its books and records available to the Commission and ORS upon request.
- 18 • To the extent that PEERLESS offers voice services to end users in South Carolina
19 in the future, it will comply with 26 S.C. Code Regs. 103-631 by having its
20 customer information listed in directories that will be distributed to its customers.
- 21 • PEERLESS requested a waiver of 26 S.C. Code Regs. 103-612.2.3, the
22 requirement to file operating maps with the Commission since the Company seeks
23 statewide certification.

- 1 ● PEERLESS does not intend to provide retail residential local exchange services at
2 the present time. PEERLESS is aware of 26 S.C. Code Regs. 103-607's
3 requirement that a bond be posted if a Company offers residential local service.
4 Should our future plans change in regard to this service offering, we will comply
5 with the bond requirement.

6 These waivers have been granted for other similarly situated carriers and PEERLESS
7 requests that the Commission provide it with the same treatment.

8 **Q. Will the service your Company intends to provide meet the service standards of the**
9 **Commission?**

10 A. Yes, PEERLESS will meet the service standards of the Commission.

11 **Q. Will granting your application adversely impact the availability of affordable local**
12 **exchange service?**

13 A. No.

14 **Q. Will your Company support universally available telephone service at affordable**
15 **rates as required by the Commission?**

16 A. Yes.

17 **Q. Does this conclude your testimony?**

18 A. Yes. I would like to thank the Commission for this opportunity to provide information
19 relevant to PEERLESS' Application and am ready to provide any additional information
20 that the Commission may need in making its decision.

**BEFORE THE PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA**

DOCKET NO. 2012-435-C

Application of:)
)
Peerless Network of South Carolina, LLC)
For a Certificate of Public Convenience and Necessity To)
Provide Facilities-based Local Exchange and Resold)
Long Distance Telecommunications Services and For)
Flexible Regulation of its Local Exchange Services and)
Alternative Regulation of its Long Distance Service)
Offerings Within the State of South Carolina)

EXHIBIT 1

Financial Information

Press Release

PEERLESS NETWORK SECURES \$15M IN FINANCING TO ACCELERATE GROWTH AND EXPAND DATA CENTER OPERATIONS

Strong 2012 Positions Peerless Network for Additional Market Share Growth

CHICAGO, IL – January 10, 2013 – Peerless Network, Inc. (www.peerlessnetwork.com), a leading provider of carrier and enterprise interconnection services, today announced that it has secured \$15M in debt financing from Square 1 Bank (www.square1bank.com). Peerless will use the financing to fund network growth, provide additional data center capacity and enter new markets.

“The debt facilities with Square 1 Bank represent a significant achievement for Peerless providing the company greater financial flexibility as we expand,” noted Doug Lee, Peerless Network’s Chief Financial Officer. “Square 1 Bank has been a phenomenal partner in helping us meet our growth objectives.”

Peerless closes the year with a tremendous record of profitable growth including:

- Average annual revenue growth of 236% and EBITDA positive since 2010.
- Expanded network points of presence (POPs) to cover 49 U.S. markets.
- Entered long term customer contracts with several national wireless carriers.
- Completed construction of our first data center and colocation facility with customer leases or options to lease nearly 8,000 square feet of space.
- Expanded our international presence to support a leading UK-based mobile carrier’s entry into the United States.
- Remained fully operational in all markets affected by Hurricane Sandy.
- Introduced innovative new products such as Hosted Least Cost Routing and PSTN Control services.
- Named the 97th fastest-growing private company in the United States by Inc. magazine.

“This has been an amazing year for Peerless and our new financing is a direct result of profitably growing our business by executing our strategic plan,” said John Barnicle, President and CEO of Peerless Network. “We remain focused on taking advantage of the competitive environment and expanding our portfolio of services with a common-sense approach that plays to our strengths. Our new state-of-the-art data center is a perfect example and is nearly 100% leased within weeks of its launch.”

About Peerless Network

Peerless Network, Inc. is a leading provider of interconnection and data center services focused on simplifying how networks, devices and people connect. Headquartered in Chicago, Peerless Network is among the nation’s fastest-growing privately held companies and ranked 97th overall on the 2012 Inc. 500 list. Please visit our website at www.peerlessnetwork.com.

About Square 1 Bank

[Square 1 Bank](http://www.square1bank.com) is a full service commercial bank dedicated exclusively to serving the financial needs of the venture capital community and entrepreneurs in all stages of growth and expansion. Square 1’s expertise, focus and strong capital base provide flexible resources and unmatched support to meet our clients’ needs. The bank offers tailored products and solutions aided by the latest in technological innovations. Square 1 has offices coast to coast in Austin, Boston, Denver, Durham, Los Angeles, New York, San Diego, Seattle, Silicon Valley and Washington, DC. For more information, visit www.square1bank.com.

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Media Contact:

Jeff Hartzell

jhartzell@peerlessnetwork.com

312-878-0783

**BEFORE THE PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA**

DOCKET NO. 2012-435-C

Application of:)	
)	
Peerless Network of South Carolina, LLC)	
For a Certificate of Public Convenience and Necessity To)	
Provide Facilities-based Local Exchange and Resold)	CERTIFICATE OF SERVICE
Long Distance Telecommunications Services and For)	
Flexible Regulation of its Local Exchange Services and)	
Alternative Regulation of its Long Distance Service)	
Offerings Within the State of South Carolina)	

This is to certify that I, Toni C. Hawkins, a Paralegal with the law firm of Robinson, McFadden & Moore, P.C., have this day caused to be served upon the person(s) named below the **Testimony of John Barnicle on behalf of Peerless Network of South Carolina, LLC** in the foregoing matter by placing a copy of same in the United States Mail, postage prepaid, in an envelope addressed as follows:

C. Lessie Hammonds, Staff Attorney
SC Office of Regulatory Staff
1401 Main Street, Suite 900
Columbia, South Carolina 29201

Dated at Columbia, South Carolina this 22nd day of January, 2013.



Toni C. Hawkins